STATE OF MICHIGAN

COURT OF APPEALS

In re BLACKSHEAR, Minors.

UNPUBLISHED
February 10, 2015

No. 322268
Wayne Circuit Court
Family Division
LC No. 06-460773-NA

Before: FORT HOOD, P.J., and JANSEN and GADOLA, JJ.

PER CURIAM.

Respondent T. Blackshear appeals by right the circuit court's order terminating her parental rights to minor children T.J. and D.J. pursuant to MCL 712A.19b(3)(c)(*i*), (g), and (j). We affirm.

I

When T.J. was born in November 2011, respondent suffered from bipolar disorder and schizophrenia. Respondent initially denied a history of mental-health issues, but was then involuntarily hospitalized as a result of her psychiatric condition. The circuit court took jurisdiction over T.J., who was removed from respondent's care and placed temporarily with her maternal grandmother. Respondent stopped taking her prescribed psychiatric medication and began hallucinating. The caseworker interviewed respondent and made visits to respondent's home. Respondent admitted to the CPS caseworker that she had been hospitalized multiple times and was unemployed. In March 2012, respondent participated in a court-ordered psychiatric evaluation, which showed that she was "acutely psychotic," "delusional," "paranoid," and unable to provide for her own basic needs. The psychiatrist concluded that respondent's "prognosis for accomplishing goals and addressing the barriers to reunification 'within a reasonable length of time' is likely poor, and [T.J.] should not be made to wait for stability and permanency any longer than necessary."

Respondent missed several scheduled visits with T.J. She became engaged to Timothy Stiff, whom she had met in a psychiatric facility. Stiff's parental rights had been terminated with respect to his own two children in 1998 and 2002.

In April 2012, the circuit court continued T.J.'s placement with her maternal grandmother and ordered respondent to participate in a treatment plan, including parenting classes, individual therapy, completion of a new psychiatric evaluation, regular contact with caseworkers, and regular supervised visitation with T.J. Over the next several months, respondent completed

parenting classes but did not appear to benefit from them. Respondent continued to deny any history of mental-health problems. According to the psychiatrist, respondent was "still very much in denial as to the severity of her mental illness." Respondent's supervised visits with T.J. were not beneficial. Respondent showed little interest in the child and would take naps and talk on her phone during the visits. Respondent did not feed T.J., change her diapers, or significantly interact with her.

By the time of a September 2012 review hearing, respondent was once again pregnant and living with Stiff. Stiff was mentally ill and had a history of domestic violence. His extensive criminal record included past convictions of assault, resisting a police officer, and various weapons offenses. The CPS caseworker opined that respondent's home would not be suitable for T.J. because of Stiff's mental condition and criminal history. The caseworker remained unsure concerning the prospects of reunification due to respondent's severe mental illness. It appeared to the court that respondent had once again stopped taking her psychiatric medications.

In December 2012, respondent gave birth to D.J. A DNA test established that Stiff was D.J.'s father. During D.J.'s birth, respondent suffered a stroke and cardiac arrest and lapsed into a coma. Respondent was subsequently hospitalized in critical care; petitioner filed a petition requesting that the circuit court take jurisdiction over D.J. Respondent left the hospital and entered a nursing facility by January 2013. Her plan was to marry Stiff and live with him after her recovery. The court took jurisdiction over D.J. and placed the child with a cousin. The court also terminated Stiff's parental rights to D.J.

Respondent remained in the nursing facility for several months. The circuit court suspended her court-ordered treatment plan and gave her additional time to establish that she could properly care for the children. By June 2013, respondent was once again participating in therapy and mental-health services and visiting the children. A psychiatric evaluation indicated that respondent was in the "extremely low range of intellectual functioning" with an IQ of 65. Respondent remained close to Stiff and told CPS caseworkers that she still planned to live with him once she was released from the nursing facility. Respondent acknowledged that T.J. and D.J. were not to spend time in Stiff's presence, but stated that she was tired of moving and planned to live with Stiff regardless. In the fall of 2013, the circuit court moved T.J. from her grandmother's home to the home of her cousin where D.J. was placed.

Respondent continued to refuse to accept her mental-health diagnosis. According to caseworkers, she was not benefitting from therapy, was combative, and posed a danger to others when she was not taking her medications. Staff members at the nursing facility were concerned about respondent's mental condition as well. During one supervised visit with D.J. at the nursing facility, respondent became violent and began screaming. The visit was cut short due to respondent's agitated and delusional behavior.

Respondent was released from the nursing facility in December 2013, and began living with her mother. Caseworkers determined that the home was not suitable for the children, but respondent refused to move. Respondent again stopped taking her psychiatric medications and became delusional and paranoid. In February, she was admitted to a psychiatric hospital. Psychiatrists reported that respondent exhibited "severe agitated combative behavior" and was a

threat to others. After her release from the psychiatric hospital, respondent was re-referred to parenting classes. However, she failed to attend. Respondent was provided additional services through a "parent-partner," but she stated that she was not interested and refused to participate. Respondent was terminated from her court-ordered parenting classes for nonattendance. Nor did respondent participate in the in-home therapy that petitioner had arranged for her.

Petitioner filed a petition requesting that the circuit court terminate respondent's parental rights to T.J. and D.J. Respondent's caseworker testified that respondent had failed to complete any portion of her court-ordered treatment plan with the exception of the psychiatric evaluations. The children had been placed with relatives for most of their lives and were thriving in their current placement. Testimony established that the children's cousin was willing and able to adopt them. The caseworker testified that returning the children to respondent's home would subject them to a substantial risk of harm from an "unsafe and unpredictable environment." Testimony suggested that it would be futile to give respondent additional time to comply with her treatment plan because she still refused to acknowledge her mental-health problems and continued to avoid taking her medications regularly.

The circuit court determined that petitioner had made reasonable, albeit ultimately unsuccessful, efforts toward reunification of the family. The court found clear and convincing evidence to support termination of respondent's parental rights to both children under MCL 712A.19b(3)(c)(*i*), (g), and (j). The court also concluded that termination of respondent's parental rights would be in the children's best interests.

II

Respondent first argues that petitioner failed to make reasonable efforts to reunify her with the children. We disagree. We review for clear error the circuit court's determination that petitioner made reasonable efforts to reunify the family. MCR 3.977(K). A finding is clearly erroneous if, although there is evidence to support it, the reviewing court is left with the definite and firm conviction that a mistake has been made. *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

"[W]ith limited exceptions, 'reasonable efforts to reunify the child and family must be made in all cases.' " *In re Frey*, 297 Mich App 242, 247; 824 NW2d 569 (2012), quoting MCL 712A.19a(2). In general, when a child is removed from a parent's custody, "petitioner is required to make reasonable efforts to rectify the conditions that caused the child's removal by adopting a service plan." *In re HRC*, 286 Mich App 444, 462; 781 NW2d 105 (2009). "While [petitioner] has a responsibility to expend reasonable efforts to provide services to secure reunification, there exists a commensurate responsibility on the part of respondents to participate in the services that are offered." *In re Frey*, 297 Mich App at 248. This includes the respondent's responsibility to demonstrate that he or she has sufficiently benefited from the services provided. *Id.*; see also *In re Gazella*, 264 Mich App 668, 676-677; 692 NW2d 708 (2005).

Petitioner provided more than sufficient services for respondent in this case. Although numerous services were repeatedly offered to respondent and explained to her each time, she failed to participate. In light of respondent's mental and physical limitations, she was given

extra time to participate in the services. Yet she persisted in failing to do so. As noted previously, respondent failed to attend parenting classes and was terminated for her repeated absences. She similarly refused to participate in the "parent-partner" program and the in-home therapy that petitioner had arranged for her. Likewise, between the date of respondent's discharge from the nursing facility and the date of the termination hearing, she participated in only three court-ordered supervised visits with the children. Respondent did not interact with the children appropriately during these visits. And while it is true that respondent participated in the court-ordered psychiatric evaluations, she persisted in refusing to acknowledge her mental illness and refused to take her prescribed medication regularly.

The circuit court did not clearly err by finding that petitioner made reasonable efforts to reunify respondent with the children as required by MCL 712A.19a(2). Respondent was afforded numerous services over a two-year period. These services were designed to address her mental illness, improve her parenting skills, and allow her to be permanently reunited with the children. However, respondent completely failed to participate in many of these services and was unable to show that she benefited from others. See *In re Frey*, 297 Mich App at 248; see also *In re Gazella*, 264 Mich App at 676-677. She refused to follow her treatment plan, failed to attend classes and visitations, and neglected to take her psychiatric medications. Petitioner did not fail to make sufficient efforts toward reunification or to provide adequate services. Rather, the failure in this case was on the part of respondent herself.

III

We also reject respondent's argument that the circuit court clearly erred by finding that termination of respondent's parental rights was in the children's best interests.[1] "If the court finds that there are grounds for termination of parental rights and that termination of parental rights is in the child's best interests, the court shall order termination of parental rights and order that additional efforts for reunification of the child with the parent not be made." MCL 712A.19b(5). "[W]hether termination of parental rights is in the best interests of the child must be proved by a preponderance of the evidence." *In re Moss*, 301 Mich App 76, 90; 836 NW2d 182 (2013).

The circuit court properly determined that there was no significant bond between respondent and the children. T.J. and D.J. had been in relative placement for most of their lives. Respondent spent very little time with the children. When respondent did visit the children, she appeared largely disinterested; she did not feed them, change their diapers, or interact with them appropriately. Furthermore, because of her mental and intellectual deficits, respondent was unable to care for her own needs, much less those of the children. The circuit court did not fail to consider the children's relative placement as part of its best-interests decision. *In re Olive/Metts Minors*, 297 Mich App 35, 43; 823 NW2d 144 (2012). The court explained that "[w]hile the children are placed with relatives it is still in their best interests to have the parental

[1] Respondent does not challenge the circuit court's determination that there was sufficient evidence to prove the statutory grounds for termination set forth in MCL 712A.19b(3)(c)(*i*), (g), and (j). Therefore, we need not address this issue.

rights terminated as they are in need of permanence and stability and given the children's ages a guardianship would not provide appropriate permanency or stability." Testimony established that the children were "thriving" in their cousin's home and the court took note of the fact that the children's cousin was willing and able to adopt them. Nor did the court err by failing to individually assess each child's needs and interests wholly apart from those of the other child. The interests of T.J. and D.J. did not significantly differ, and the court was not required to make redundant findings. *In re White*, 303 Mich App 701, 715-716; 846 NW2d 61 (2014). In sum, the evidence clearly established that respondent was unable to care for the children, that the children would face the risk of harm if returned to respondent's custody, and that the children would be best served by the stability and permanence that their cousin could provide them. The circuit court correctly found by a preponderance of the evidence that termination of respondent's parental rights was in the children's best interests.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Kathleen Jansen
/s/ Michael F. Gadola